



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. 0-2992
Re: Will the provisions of House
Bill No. 78 in any way affect
the amount of penalty to be
collected on property re-
assessed under the provisions
of Articles 7346 and 7347?

We are in receipt of your letter in which you re-
quest the opinion of this department on the facts set out
therein as follows:

"Articles 7346 and 7347, R. C. S., refer to
the cancellation of delinquent taxes and the re-
assessment of property in cases where the assess-
ments have been found to be invalid by the Com-
missioners and District Courts.

"In such cases the Tax Assessor-collector is-
sues certificates cancelling the taxes which appear
on the delinquent tax records after which the pro-
perty is reassessed and after the Commissioners
Court passes on the reassessments, the Tax Assessor
makes a supplement to his current tax roll charging
thereon the amount of taxes due on the property,
taking into consideration the tax rates levied for
the years for which the assessments are made, and
in addition to the amount of taxes charged against
the property, he makes a penalty charge equal to
interest at the rate of six per cent per annum,
making the calculation from the date the taxes
would have become delinquent had they been proper-
ly assessed, to the date the taxes are reassessed.

"Article 7348 provides for the collection of
additional interest if the taxes are not immediately
paid. Due to the fact that the reassessments are

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placed on a supplement to the current tax roll and the taxes, if not paid immediately, are not reported on the delinquent tax roll until the end of the fiscal year, you will please advise this department whether or not the provisions of House Bill No. 76, Acts of the Regular Session of the Forty-seventh Legislature, will in any way affect the amount of penalty to be collected on property reassessed under the provisions of Articles 7346 and 7347."

House Bill No. 76 provides in part as follows:

"Section 1. That all interest and penalties that have accrued on all ad valorem and poll taxes that were delinquent on or before July 1, 1940, due the State, any county, common school district, road district, levee improvement district, water improvement district, and water control and improvement district, irrigation district, and other defined subdivisions of the State (and, subject to the provisions hereinbefore and hereinafter contained, such interest and penalties on delinquent ad valorem and poll taxes due cities, towns, and villages, and special school districts, and independent school districts,) shall be and the same are hereby released, provided said ad valorem and poll taxes are paid on or before November 1, 1941.
. . . ."

As you will note from the reading of the above, in order for House Bill No. 76 to affect the interest and penalty on delinquent ad valorem taxes, it is necessary that the same were delinquent on or before July 1, 1940.

In your question you inquire about property which is being reassessed for taxes during the current year, under the provisions of Article 7347, which reads in part as follows:

"When said list has been so made up the commissioners court may, at any meeting, order a cancellation of such properties in said list that are shown to have been previously assessed, but which assessments are found to be invalid and have not been canceled by any former order of the commissioners court, or by decree of any district court;

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and shall then refer such list of properties to be assessed or re-assessed to the tax assessor who shall proceed at once to make an assessment of all said properties, from the data given by said list (the certificate of the Comptroller as to assessments or re-assessments made by the tax assessor shall not be necessary as required under Article 7207, but he shall furnish all blank forms needed, that uniformity may be had in all counties), and when completed shall submit the same to the commissioners court, who shall pass upon the valuations fixed by him; and, when approved as to the values, shall cause the taxes to be computed and extended at the tax rate in effect for each separate year mentioned in said list; and, in addition thereto, shall cause to be added a penalty equal in amount to what would be six per cent interest to the date of making said list from the date such properties would have been delinquent had same been properly rendered by the owner thereof at the time and for the years stated in said list;"

Article 7348 provides as follows:

"The said list, when complete in all respects, and filed with the tax collector, shall constitute a valid lien against all the properties mentioned in said list for the full amount of taxes, penalties, officers costs, advertising and six per cent interest from the date of said list to the date of the payment of the full sum due on each separate piece of property. A copy of said list and all cancellation orders shall be furnished to the Comptroller, and a copy filed with the county clerk. Id."

In Opinion No. 0-2083, this department considered the question of the effect of the statute of limitations upon taxes which had been reassessed under the authority of Articles 7346 and 7347. In said opinion we ruled that the statute of limitation begins to run only from the date of reassessment and not from the date of the original assessment which was declared void. In line with the above holding it is our opinion that when, at the present time, taxes are reassessed against a particular piece of property because the same was either

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omitted from the tax roll originally or the original assessment against said property was void, the same are not taxes which were delinquent prior to July 1, 1940. If such reassessment occurred prior to July 1, 1940, it is our opinion that House Bill No. 76, supra, would apply to such taxes because said House Bill No. 76 applies to all ad valorem taxes that were delinquent prior to July 1, 1940. However, in cases where the property was reassessed for taxes during the year 1941, the taxes so assessed are not in our opinion taxes that were delinquent before July 1, 1940, so as to be affected by House Bill No. 76, supra.

We trust that the foregoing fully answers your inquiry in the matter.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED JUL 18, 1941

Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

BY *Billy Goldberg*
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